

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2021-349-E ORDER NO. 2022-188

APRIL 11, 2022

IN RE: Joint Petition of Duke Energy Carolinas,) ORDER GRANTING MOTION
LLC and Duke Energy Progress, LLC to) TO WITHDRAW JOINT
Request the Commission to Hold a Joint) PETITION AND CLOSING
Hearing with the North Carolina Utilities) DOCKET
Commission to Develop Carbon Plan)

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the request Duke Energy Carolinas, LLC and Duke Energy Progress, LLC, (together, “Petitioners”) to withdraw their Joint Petition for a Joint Hearing with the North Carolina Utilities Commission. As explained herein, the Commission held that the Petitioners’ request to withdraw shall be treated as a motion for withdrawal, which is granted.

II. DISCUSSION

On November 9, 2021, the Petitioners filed a Joint Petition to Request a Joint Hearing with the North Carolina Utilities Commission “to develop the Carbon Plan required by N.C. Gen. Stat. §§ 62-2, 62-30, Part I of Session Law 2021-165 (“HB 951”).”¹ In this Joint Petition, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC requested an expedited schedule and included a proposed schedule for comments on the Petition from interested stakeholders.

¹ Joint Petition dated November 9, 2021, at p. 1.

On November 22, 2021, the Commission ordered and directed the Clerk of the Commission to afford notice of the Joint Petition of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC. As a result of Order No. 2021-763, the Chief Clerk issued a Notice of Filing and Request for Comments (Notice) in this docket on November 22, 2021. The Notice set forth the date by which Petitions to Intervene must be filed in the docket and the dates by which comments on the Joint Petition must be submitted. The Notice included the following deadlines for comments:

(1) a due date for any interested party or person to file initial comments thirty (30) days following the date by which petitions to Intervene must be filed; and

(2) a due date for reply comments twenty (20) days following the date for initial comments.

This Notice was not only posted on the Commission's website, but also on the websites of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC. The Commission also requested for the Office of Regulatory Staff and the South Carolina Department of Consumer Affairs to post the Notice on their respective websites.

On December 29, 2021, Wal-Mart, Incorporated filed a letter of responsive comments to the Joint Petition in the docket in accordance with the dates provided in the Notice.

On January 24, 2022, the Petitioners filed a "Notice of Withdrawal" stating, "the Companies hereby give notice that they withdraw the Joint Petition, as a matter of right, without prejudice."²

² Notice of Withdrawal dated January 24, 2022, at p. 3.

S.C. Code Ann. § 58-3-225(E) states:

A party may withdraw its petition, application, complaint, counterclaim, cross-claim, or third-party claim from any commission docket one time as a matter of right, and without prejudice, **provided that it does so prior to the later of the date that responsive pleadings are filed** or the date that the withdrawing party's direct testimony addressing such petition, application, complaint, counterclaim, cross-claim, or third-party claim is due to be filed with the commission. A party may thereafter withdraw its petition, application, complaint, counterclaim, cross-claim, or third-party claim from any commission docket only upon order of the commission and upon such terms and conditions as the commission considers proper. (emphasis added)

III. FINDINGS OF FACT

1. The Commission finds that Wal-Mart, Incorporated filed a responsive pleading in its December 29, 2021 letter.

2. A responsive pleading was filed prior to the Petitioners' Notice of Withdrawal filing.

3. The Commission construes Petitioners' Notice of Withdrawal as a Motion to Withdraw its Petition and will treat it as such.

IV. CONCLUSIONS OF LAW

1. Because a responsive filing was received prior to the Petitioners' filing to withdraw their Petition, withdrawal pursuant to S.C. Code Ann. § 58-3-225(E) as a matter of right without prejudice is inapplicable.

2. Considered as a Motion to Withdraw, however, the request of the Petitioners is properly granted.

3. All other pending motions in the docket, therefore, are moot.

V. ORDERING PROVISIONS

IT IS THEREFORE ORDERED:

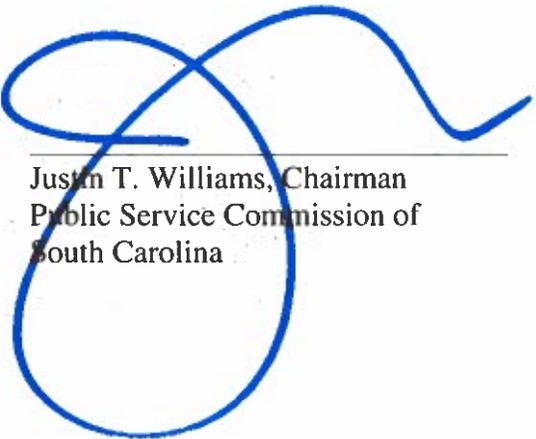
1. The Notice of Withdrawal filed by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC is denied.

2. The request contained in the Notice of Withdrawal, treated as a Motion to Withdraw, is granted.

3. All outstanding motions in the docket are moot.

4. The docket is hereby administratively closed.

BY ORDER OF THE COMMISSION:



Justin T. Williams, Chairman
Public Service Commission of
South Carolina